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09/855,012	05/14/2001	Kamran K. Shokoohi	5218-000001	1189

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EXAMINER

SHAY, DAVID M

ART UNIT PAPER NUMBER

3739

DATE MAILED: 04/02/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

NAF

# Office Action Summary

Application No.

09/855,012

Applicant(s)

Shobkuchi

Examiner

d. shay

Group Art Unit

3739

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE — 3 — MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on January 15, 2003
- ☒ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 2-7, 10-12, + 14-27 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) 14-19 + 27 is/are allowed.
- ☒ Claim(s) 2-7, 10-12, + 20-26 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

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The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 7 and 12 are indefinite because it is unclear what structure is intended to be implied by reciting the device as disposable. The examiner notes applicant's amendments to claims 7 and 12, however, the claims are still indefinite. By way of clarification, it is unclear what further structure is to be implied by reciting the device as disposable. The examiner notes the broadest reasonable interpretation of the term "disposable" – "able to be disposed of". With this interpretation in mind, an analysis of claim 20 for example reveals no absence of structure, which would render the device unable to be disposed of. It is noted that even if the device were made of diamond studded platinum, it would still be possible to throw it away, thus the device would be "disposable".

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

*Revised section 102(e): For examining all Applications, whenever filed, and for reexamining of all Patents, and for determining the prior art dates<sup>1</sup> of patents and certain Application Publications:*

A person shall be entitled to a patent unless-

(e) The invention was described in (1) an application for patent, published under section 122 (b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21 (2) of such treaty in the English language; or

Pre-AIPA section 374: For WIPO Publication of International Applications filed prior to November 29, 2000:

The publication under the treaty of an international application shall confer no rights and shall have no effect under this title other than that of a printed publication.

Revised section 374: For WIPO Publications of International Applications filed on or after November 29, 2000:

The publication under the treaty defined in section 351(a) of this title, of an international application designating the United States shall be deemed a publication under section 122 (b), except as provided in sections 102(e) and 154(d) of this title.

Effective Date Provisions for the amendments to sections 102(e) and 374, as amended by H.R. 2215:

Except as otherwise provided in this section, sections 4502 through 4504 and 4506 through 4507, and the amendments made by such sections, shall be effective as of November 29, 2000, and shall apply only to applications (including international applications designating the United States) filed on or after that date. The amendments made by section 4504 shall additionally apply to any pending application filed before November 29, 2000, if such pending application is published pursuant to a request of the applicant under such procedures as may be established by the Director.

Claims 2-5, 7, 10, 12 and 20 -26 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Meserol.

See Figures 2-4, 7 and 8 and column 6, line 25 to column 9, line 41. Wherein the optical fiber panel-diode combination is considered the light source and the transitional phrase "is" is considered open-ended, since the source used is not merely a silicon chip which is the actual diode but also other components -e.g. leads, the hermetic package and a lens or window through which the radiation exits the housing. The raised portion of element 22 is considered a dome and the curved portion at the juncture of the flat top portion and the sloping side portion leading to the flange is one part of the device containing "a segment of a sphere". The power supply is mounted on the unit via the fiber optic.

Claims 2-7, 10-12 and 20-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Chen et al ('273).

See figures 12-16 wherein each lens (element 4) of Figure 12 is teardrop shaped.

Claims 14-19 and 27 are allowed.

Applicant's arguments with respect to claims 2-7, 10-12, and 20-26 have been considered but are moot in view of the new ground(s) of rejection.

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication should be directed to David Shay at telephone number 703-308-2215.

Shay/dl

March 20, 2003

  
DAVID M. SHAY  
PRIMARY EXAMINER  
GROUP 330